

## **REMARKS**

### **A. Introduction**

In response to the non-final Office Action mailed April 12, 2007, Applicants respectfully submit the following amendments and remarks. Upon entry of the present amendment, Claims 1 and 36 have been amended to require a fixation system that includes a plurality of struts connected to at least two fixation plates, where at least one of the struts is not substantially parallel to at least one other of the struts. No new matter has been added by these amendments. Pursuant to 37 C.F.R. § 1.173(c), support in the disclosure of the patent, among other places, can be found in Figures 2, 4, and 11 of U.S. Patent No. 5,891,143. Claims 2 and 8 have been amended to reflect the amendment to Claim 1, upon which Claims 2 and 8 depend. Claims 43 and 44 have been amended to reflect the amendment to Claim 36, upon which Claims 43 and 44 depend. Claims 1, 10, 36, and 41 were also amended to correct typographical errors. Claim 45 has been amended to delete the phrase “adapted to” in the fifth line of the claim. Claims 37-44 and 46-48 have been amended to remove the capitalization of the word “claim” to provide consistency throughout all pending claims. After entry of the amendment, Claims 1-14 and Claims 36-48 are pending in the reissue application. The undersigned respectfully submits that all of the pending claims are patentable over the art cited in the Office Action.

Because the claims have been amended, Applicants submit with this response a new reissue declaration.

**B. Claim Rejections Under 35 U.S.C. §§ 102(b) and 103(a)**

The Office Action rejected Claims 1-7, 9-14, 36-42, and 45-47 under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious under *Blyakher* (U.S. Patent No. 5,776,132). The Office Action also rejected dependent Claims 10 and 11 under 35 U.S.C. 103(a) over *Blyakher* in view of *Cook* (U.S. Patent No. 5,275,598).

*Blyakher* shows fixation plates with a plurality of holes. Applicants respectfully disagree with the Examiner's rejection of Claims 1-7, 9-14, 36-42, and 45-47, as *Blyakher* does not teach, suggest, or disclose all of the elements of any of the pending claims. For instance, among other differences between the pending claims and *Blyakher*, *Blyakher* does not teach, suggest, or disclose two or more fixation plates joined by struts where at least two of the struts are not substantially parallel to one another.

*Cook* discloses a method of forming two half rings, with each ring having a plurality of holes. Applicants respectfully disagree with the Examiner's rejection of dependent Claims 10 and 11 in view of *Cook*, as *Cook* does not teach, suggest, or disclose all of the elements of these claims. For instance, among other differences between these claims and *Cook*, *Cook* does not teach, suggest, or disclose two or more fixation plates joined by struts where at least two of the struts are not substantially parallel to one another.

Independent Claims 1 and 36 have been amended to require that the fixation system include a plurality of struts that connect the fixation plates, where at least one of the struts is not substantially parallel to at least one other of the struts. Dependent Claims 10 and 11 depend from Claim 1. Independent Claim 45 also includes this requirement. Accordingly,

all currently pending claims in the reissue application require that the fixation system include a plurality of struts connecting the fixation plates, where at least one of the struts is not substantially parallel to at least one other of the struts. *Blyakher* does not disclose, teach, or suggest a fixation system with struts that are not all parallel to each other. Rather, *Blyakher* only discloses connecting rods that are parallel to one another. *See, e.g.*, Fig. 1, col. 2, ll. 50-55. Similarly, *Cook* does not disclose, teach, or suggest a fixation system with struts that are not all parallel to each other. Instead, *Cook* only discloses tie rods that are parallel to one another. *See, e.g.*, Fig. 1, col. 4, ll. 13-53.

Because neither *Blyakher* nor *Cook* teaches or suggests a fixation plate containing each and every element of Claims 1-14 and 36-48, Applicants respectfully submit that all pending claims are not anticipated or made obvious by *Blyakher* or *Cook*.

## CONCLUSION

Applicants respectfully request allowance of the pending claims and issuance of a patent containing these claims in due course. No fees are believed to be due at this time, however, if that belief is incorrect, the undersigned authorizes any fees due to be charged to Deposit Account number 11-0855. If there remain any additional issues to be addressed, the Examiner is urged to contact the undersigned attorney at 404.532.6947.

Respectfully submitted,

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